



IRA A. JACKSON  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

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May 12, 1983

You inquire about the Massachusetts income tax treatment of contributions to an Individual Retirement Account ("IRA") and to a qualified trust described in Section 401(a) of the Internal Revenue Code ("Code") which includes a "cash or deferred arrangement" described in Section 401(k) of the Code.

A "cash or deferred arrangement" is any arrangement which is part of a qualified profit-sharing or stock bonus plan and under which (1) a covered employee may elect to have the employer make payments to a trust under the plan on his behalf, or to the employee directly in cash; (2) employee directed employer contributions are not distributable to plan participants or other beneficiaries earlier than upon retirement, death, disability, separation from service, hardship or attainment of age 59½; and (3) which provides that an employee's right to his accrued benefit derived from such employer contributions is nonforfeitable.

Massachusetts General Laws Chapter 62, Section 2, defines Massachusetts gross income as federal gross income with certain modifications. Section 402(a)(8) of the Code provides that contributions made by an employer on behalf of an employee to a trust which is part of a qualified cash or deferred arrangement shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash. Employer contributions to a qualified trust are not included in an employee's income. (U.S. Treas. Reg. 1.402(a)-1(a)).

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A qualified trust described in Section 401(a) is exempt from taxation. (I.R.C. s. 501(a)). Under Section 402(a)(1) of the Code amounts actually distributed or made available to any distributee from a qualified trust are taxable to him under Section 72 of the Code in the year so distributed or made available.

Contributions to an IRA are deductible from federal gross income. (I.R.C. s. 219). Earnings on an IRA are exempt from current federal income taxation. (I.R.C. s. 408(e)). Distributions from an IRA are included in the federal gross income of a distributee in the year of receipt. (I.R.C. s. 408(d)(1)).

The federal deduction for IRA contributions is not allowed as a deduction from Massachusetts Part B gross income. (G.L. c. 62, s. 2(d)(9)). Amounts distributed from an IRA are excluded from Massachusetts gross income until the aggregate amount so excluded is equal to the aggregate amount of contributions previously taxed. (G.L. c. 62, s. 2(a)(2)(F)).

Based on the foregoing it is ruled:


1. Employee directed employer contributions to a qualified trust through a cash or deferred arrangement which are not included in an employee's federal gross income are not included in his Massachusetts gross income and are not subject to Massachusetts income taxation until they are actually distributed or made available to him.

2. Earnings on contributions to a qualified trust which are not included in federal gross income are not included in Massachusetts gross income and are not subject to Massachusetts income taxation until they are actually distributed or made available to the employee.

3. Contributions to an IRA, including an employer sponsored IRA, are not deductible from Massachusetts gross income.

4. Earnings on an IRA which are not included in federal gross income are not subject to current Massachusetts income taxation.

Very truly yours,



Commissioner of Revenue